Supreme Court, U.S.
FILED
FEB 25 2000
CLERK

No. 99-658

In the Supreme Court of the United States

JAIME CASTILLO, BRAD EUGENE BRANCH, RENOS LENNY AVRAAM, GRAEME LEONARD CRADDOCK, KEVIN A. WHITECLIFF,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED OCTOBER 15, 1999
CERTIORARI GRANTED JANUARY 14, 2000

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No. 99-658

In the Supreme Court of the United States

JAIME CASTILLO, BRAD EUGENE BRANCH, RENOS LENNY AVRAAM, GRAEME LEONARD CRADDOCK, KEVIN A. WHITECLIFF,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

1. Relevant Docket Entries in the District Court

U.S. District Court
Western District of Texas (Waco)

CRIMINAL DOCKET FOR CASE #: 93-CR-46-5[1]

USA v. Schroeder, et al Filed: 03/30/93
Case Assigned to: Honorable Walter S. Smith

[1] Note by counsel: 93-CR-46-5 is the docket for petitioner Castillo, which also includes certain matters common to all petitioners. Matters concerning other individual petitioners are inserted here where appropriate and are taken from docket Nos. 93-CR-46-2 (Branch), 93-CR-46-3 (Whitecliff), 93-CR-46-10 (Craddock), and 93-CR-46-11 (Avraam).

Other Dkt # 6:93-m -00059 USCA #97-50708

* * *

8/6/93 340 Superseding indictment as to Kathryn Schroeder (1) count(s) 1sss, 2sss, 3sss, Brad Eugene Branch (2) count(s) 1sss, 2sss, 3sss, Kevin A. Whitecliff (3) count(s) 1sss, 2sss, 3sss, Clive Doyle (4) count(s) 1ss, 2ss, 3ss, Jaime Castillo (5) count(s) 1ss, 2ss, 3ss, Livingstone Fagan (6) count(s) 1s, 2s, 3s Paul Fatta (7) count(s) 1, 2, 3, 9, 10, Woodrow Kendricks (8) count(s) 1, 2, 4, 5, Delroy Nash (9) count(s) 1, 2, 4, 6 Graeme Leonard Craddock (10) counts(s) 1, 2, 3, 7, 8, Renos Avraam (11) count(s) 1, 2, 3, Ruth Ottman Riddle (12) count(s) 1, 2, 3 (csw) [Entry date 08/17/93]

* * *

2/23/94 1192 COURT'S Jury instructions as to Brad Eugene Branch, Kevin A. Whitecliff, Clive Doyle, Jaime Castillo, Livingstone Fagan, Paul Fatta, Woodrow Kendrick, Norman Washington Allison, Graeme Leonard Craddock, Renos Avraam, Ruth Ottman Riddle (dw) [Entry date 02/23/94]

* * *

2/26/94 1207 Jury verdict as to Jaime Castillo, Livingstone Fagan, Paul Fatta, Woodrow Kendrick not guilty Jaime Castillo (5) count(s) 1ss, Livingstone Fagan (6) count(s) 1s, Paul Fatta (7) count(s) 1, 3, Woodrow Kendrick (8) count(s) 1, 2, 4, not guilty Paul Fatta (7) count (s) 2, to a Lesser Included Offense: Jaime Castillo (5) count (s) 2ss, Livingstone Fagan (6)

count(s) 2s, guilty Jaime Castillo (5) count(s) 3ss, Livingstone Fagan (6) count(s) 3s, Paul Fatta (7) count(s) 9, 10 (csw) [Entry date 03/02/94]

* * *

6/17/94 -- Sentencing Graeme Leonard Craddock (10) counts(s) 3, 7 held. Statement of Defendant and Counsel heard. Objections to pre-sentence report heard. Court advised defendant of right to appeal. Defendant continued in custody. The defendant Graeme Leonard Craddock is hereby committed to the custody of the U.S. Bureau of Prisons to be imprisoned for a term of 10 years as to count 3 and 120 months as to Count 7, the term imposed as to Count 3 to be served CONSECUTIVELY to the term imposed as to Count 7. Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years as to Count 3 and 3 years as to Count 7, such terms of supervised release to be served CONCURRENTLY with each other. The defendant shall pay a fine of $2,000.00, restitution in the amount of $637, 607.49 and $494, 080.00, and a special assessment in the amount of $100.00; Mooted Motions: motion to approve expenses and attorney's fees in excess of the maximum amount allowed by statute [1218-1] as to Graeme Leonard Craddock (10) (csw) [Entry date 06/24/94]

* * *

6/21/94 1319 Sentencing Findings and Opinion as to Brad

Eugene Branch, Kevin A. Whitecliff, Clive Doyle, Jaime Castillo, Livingstone Fagan, Paul Fatta, Leonard Craddock, Renos Avraam, Ruth Ottman Riddle (csw) [Entry date 06/23/94]

* * *

6/23/94 1330 Amended judgment as to Jaime Castillo (5) count(s) 2ss, 3ss. Defendant Jaime Castillo is hereby committed to the custody of the U.S. Bureau of Prisons to be imprisoned for a term of 120 months as to Count SS2 and 30 years as to Count SS3, the term imposed as to Count SS3 to be served CONSECUTIVELY to the term imposed as to Count SS2. Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to Count SS2 and 5 years as to Count SS3, such terms of supervised release to be served CONCURRENTLY with each other. The defendant shall pay a fine of $2,000.00, restitution in the amount of $637,607.49 and $494,080.00, and a special assessment in the amount of $100.00. (csw)
[Entry date 06/24/94]

* * *

6/23/94 1328 Amended judgment as to Brad Eugene Branch (2) count(s) 2sss, 3sss. Defendant Brad Eugene Branch is hereby committed to the custody of the U.S. Bureau of Prisons to be imprisoned for a term of 120 months as to Count SSS2 and 30 years as to Count SSS3, the term imposed as to Count SSS3 to be served CONSECUTIVELY to the term imposed as to Count SSS2. Upon

release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to Count SSS2 and 5 years as to Count SSS3, such terms of supervised release to be served CONCURRENTLY with each other. The defendant shall pay a fine of $2000.00, restitution in the amount of $637,607.49 and $494,080.00, and a special assessment in the amount of $100.00. (csw)
[Entry date 06/24/94]

* * *

6/23/94 1329 Amended judgment as to Kevin A. Whitecliff (3) count(s) 2sss, 3sss. Defendant Kevin A. Whitecliff is hereby committed to the custody of the U.S. Bureau of Prisons to be imprisoned for a term of 120 months as to Count SSS2 and 30 years as to Count SSS3, the term imposed as to County SSS3 to be served CONSECUTIVELY to the term imposed as to Count SSS2. Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to Count SSS2 and 5 years as to Count SSS3, such terms of supervised release to be served CONCURRENTLY with each other. The defendant shall pay a fine of $2,000.00, restitution in the amount of $637,607.40 and $494,080.00, and a special assessment of $100.00. (csw)
[Entry date 06/24/94]

* * *

6/23/94 1332 Amended judgment as to Renos Lenny Avraam (11) count(s) 2, 3. The defendant Renos Lenny

Avraam is hereby committed to the custody of the U.S. Bureau of Prisons to be imprisoned for a term of 120 months as to Count 2 and 30 years as to Count 3, the term imposed as to Count 3 to be served CONSECUTIVELY to the term imposed as to Count 2. Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to Count 2 and 5 years as to Count 3, such terms of supervised release to be served CONCURRENTLY with each other. The defendant shall pay a fine of $10,000.00, restitution in the amount of $637,607.49 and $494,080.00, and a special assessment in the amount of $100.00. (csw) [Entry date 06/24/94]

* * *

6/24/94 1335 Notice of appeal by Jaime Castillo appealing the Judgment and Sentence herein, which was filed and entered on June 21, 1994. (csw) [Entry date 06/24/94]

* * *

6/24/94 1333 Notice of appeal by Brad Eugene Branch from final Judgment and sentencing in this cause, said Judgment signed and filed June 21, 1994. (csw) [Entry date 06/24/94]

* * *

6/24/94 1334 Notice of appeal by Kevin A. Whitecliff from the judgment and sentence entered in this action on the 17th day of June, 1994. (csw) [Entry date 06/24/94]

* * *

6/24/94 1336 Notice of appeal from the final judgment entered in this action on June 21, 1994 and amended on June 23, 1994 by Renos Lenny Avraam (csw) [Entry date 06/24/94]

* * *

6/30/94 1349 Notice of appeal to 5th Circuit by Graeme Leonard Craddock from verdict, judgment and sentence. (mc) [Entry date 07/01/94]

* * *

9/4/97 1460 Notice of appeal by Jaime Castillo (ek) [Entry date 09/05/97]

* * *

9/4/97 -- Resentencing proceedings held for Brad Eugene Branch (2), Kevin Whitecliff (3), Jaime Castillo (5), Graeme Leonard Craddock (10) and Renos Lenny Avraam (11). Arguments of counsel and allocution of defendants heard. Judge Smith ruled that the previously imposed sentences will remain the same. Defendants advised of right to appeal. All continued in custody. An Order stating findings will be entered. (ek) [Entry date 09/05/97] [Edit date 09/05/97]

* * *

9/5/97 1461 Ordered that as to Count Three, the 30-year sentences as to Brad Eugene Branch, Kevin A. Whitecliff, Jaime Castillo, and Renos Lenny Avraam will be reimposed. The 10-year sentence of Graeme Leonard Craddock will be reimposed. The other terms of the original sentences are not disturbed. (ek) [Entry date 09/08/97]

* * *

9/9/97 1462 Notice of appeal by Brad Eugene Branch (ek) [Entry date 09/09/97]

* * *

9/10/97 1464 Notice of appeal by Renos Lenny Avraam (ek) [Entry date 09/11/97]

* * *

9/11/97 1466 Notice of appeal by Graeme Leonard Craddock (ek) [Entry date 09/12/97]

* * *

10/1/97 1482 Notice of appeal by Kevin A. Whitecliff (ek) [Entry date 11/18/97]

2. Relevant Docket Entries in the Court of Appeals; First Appeal

(Title omitted in printing.)

94-50437

GENERAL DOCKET FOR
Fifth Circuit Court of Appeals

Court of Appeals Docket #: 94-50437 Filed: 6/28/94
Nsuit: 0
USA v. Branch, et al
Appeal from: Western District of Texas, Waco

* * *

Current cases:

	Lead	Member	Start	End
Additional Appeal:				
	94-50437	94-50452	7/5/94	
	94-50437	94-50450	7/1/94	8/18/94
	94-50437	94-50447	6/30/94	
	94-50437	94-50440	6/28/94	
	94-50437	94-50439	6/28/94	
	94-50437	94-50438	6/28/94	

* * *

8/2/96 Opinion filed. Issd in T form? y Issue Mandate due on 8/23/96 in 94-50437, in 94-50438, in 94-50439, in 94-50440, in 94-50447, in 94-50452. [94-50437, 94-50438, 94-50439, 94-50440, 94-50447, 94-50452] (rmf) [94-50437 94-50438 94-50439 94-50440 94-50447 94-50452]

8/2/96 Judgment entered and filed. [94-50437, 94-50438, 94-50439, 94-50440, 94-50447,

94-50452] (rmf) [94-50437 94-50438 94-50439 94-50440 94-50447 94-50452]

* * *

9/25/96 TREATING THE SUGGESTION FOR REHEARING EN BANC AS A PETITION FOR PANEL REHEARING. COURT Order filed denying suggestion for rehearing en banc [395587-1] With poll (Y/N)?: n in 94-50437, denying suggestion for rehearing en banc [395590-1] With poll (Y/N)?: n in 94-50438, denying suggestion for rehearing en banc [395588-1] With poll (Y/N)?: n in 94-50439, denying suggestion for rehearing en banc [398893-1] With poll (Y/N)?: n in 94-50440, denying suggestion for rehearing en banc [398892-1] With poll (Y/N)?: n in 94-50447, denying suggestion for rehearing en banc [395591-1] With poll (Y/N)?: n in 94-50452 (PEH, JMD,CRS)) Copies to all counsel. [94-50437, 94-50438, 94-50439, 94-50440, 94-50447, 94-50452] (rmf) [94-50437 94-50438 94-50439 94-50440 94-50447 94-50452]

2. Relevant Docket Entries in the Court of Appeals; Second Appeal

(Title omitted in printing.)

97-50708

GENERAL DOCKET FOR
Fifth Circuit Court of Appeals
Court of Appeals Docket #: 97-50708 Filed: 9/12/97
Nsuit: 0
USA v. Castillo
Appeal from: Western District of Texas, Waco
* * *

Additional Appeal:

97-50708	97-50724	9/17/97
97-50708	97-50725	9/17/97
97-50708	97-50726	9/17/97
97-50708	97-51010	12/1/97

* * *

Proceedings include all events.
97-50708 USA v. Castillo

UNITED STATES OF AMERICA
Plaintiff - Appellee

v.

JAIME CASTILLO; BRAD EUGENE BRANCH; RENOS LENNY AVRAAM; GRAEME LEONARD CRADDOCK; KEVIN A WHITECLIFF
Defendants - Appellants

* * *

6/22/99 Opinion filed. Issd in T form? Y Issue Mandate due on 7/13/99 in 97-50708, in 97-50724, in

97-50725, in 97-50726, in 97-51010. [97-50708, 97-50724, 97-50725, 97-50726, 97-51010] (rmf) [97-50708 97-50724 97-50725 97-50726 97-51010]

6/22/99 Judgment entered and filed. [97-50708, 97-50724, 97-50725, 97-50726, 97-51010] (rmf) [97-50708 97-50724 97-50725 97-50726 97-51010]

* * *

7/28/99 COURT Order filed denying petition for rehearing en banc [1327161-1] With poll (Y/N)?: n in 97-50708, denying petition for rehearing en banc [1327345-1] With poll (Y/N)?: n in 97-50724, denying petition for rehearing en banc [1328468-1] With poll (Y/N)?: n in 97-50725, denying petition for rehearing en banc [1329013-1] With poll (Y/N)?: n in 97-50726, denying petition for rehearing en banc [1329083-1] With poll (Y/N)?: in 97-51010 n Issue Mandate due on 8/4/99 in 97-50708, in 97-50724, in 97-50725, in 97-50726, in 97-51010. Copies to all counsel. [97-50708, 97-50724, 97-50725, 97-50726, 97-51010] (jca) [97-50708 97-50724 97-50725 97-50726 97-51010]

3. Superseding Indictment

(Title omitted in printing.)

FILED
AUG 06 1993
Clerk, U.S. Dist. Court

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

KATHRYN SCHROEDER (1)
BRAD EUGENE BRANCH (2)
KEVIN A. WHITECLIFF (3)
CLIVE J. DOYLE (4)
JAIME CASTILLO (5)
LIVINGSTONE FAGAN (6)
PAUL GORDON FATTA (7)
WOODROW KENDRICK, also known as BOB KENDRICK, (8)
NORMAN WASHINGTON ALLISON, also known as DELROY NASH, (9)
GRAEME LEONARD

. CRIMINAL NO.
. W-93-CR-046
. SUPERSEDING
. INDICTMENT
. [18 U.S.C. 1117--
. Conspiracy to Murder
. Federal Officers; 18
. U.S.C. 1114 and 1111
. -- Murder of Federal
. Officers; 18 U.S.C.
. 924(c)(1)--Possession
. of a Firearm During
. the Commission of a
. Crime of Violence; 26
. U.S.C. 5861(d)--
. Possession of an Un-
. registered Destructive
. Device; 18 U.S.C. 371
.--Conspiracy to

CRADDOCK, (10)
RENOS AVRAAM, (11) and
RUTH OTTMAN RIDDLE, (12)

Defendants.

. Possess an Un-
. registered Destruc-
. tive Device; 18 U.S.C.
. 371--Conspiracy to Un-
. lawfully Manufac-
. ture and Possess
. Machineguns; 18
. U.S.C. 922(o) Unlawful
. Possession of Machine
. Guns; 18 U.S.C. 2--
. Aiding and Abetting]

THE GRAND JURY CHARGES:

COUNT ONE
[18 U.S.C. § 1117]

1. From on or before February, 1992, and continuing thereafter up to and including April 19, 1993, in the Western District of Texas, Defendants,

KATHRYN SCHROEDER
BRAD EUGENE BRANCH
KEVIN A. WHITECLIFF
CLIVE J. DOYLE
JAIME CASTILLO
LIVINGSTONE FAGAN
PAUL GORDON FATTA
WOODROW KENDRICK
aka BOB KENDRICK
NORMAN WASHINGTON ALLISON,
aka DELROY NASH
GRAEME LEONARD CRADDOCK

RENOS AVRAAM
and
RUTH OTTMAN RIDDLE,

did knowingly, willfully and unlawfully combine, conspire, confederate, and agree together and with each other, and with persons known and unknown to the Grand Jury, to kill, with malice aforethought during the performance and on account of the performance of their duties, officers and employees of the Bureau of Alcohol, Tobacco and Firearms (hereinafter "ATF"), United States Department of the Treasury, including but not limited to, ATF Special Agents Steven D. Willis, Robert Williams, Conway C. LeBleu, and Todd W. McKeehan, and Agents of the Federal Bureau of Investigation (hereinafter "FBI"), United States Department of Justice, all agencies of the United States as specified in Title 18, United States Code, Section 1114, all in violation of Title 18, United States Code, Section 1117.

MEMBERS OF THE CONSPIRACY

2. At all times pertinent to this indictment, Vernon K. Howell, also known as David Koresh, was a member of and the self-proclaimed prophet for a group of individuals who lived at a location known at the Mt. Carmel Compound, located near Waco, Texas.

3. At all times pertinent to this indictment, Steven Emil Schneider and Douglas Wayne Martin were followers of and advisors to Vernon Howell, also known as David Koresh.

4. At all times pertinent to this indictment Defendants KATHRYN SCHROEDER, BRAD EUGENE BRANCH,

KEVIN A. WHITECLIFF, CLIVE J. DOYLE, JAIME CASTILLO, LIVINGSTONE FAGAN, PAUL GORDON FATTA, WOODROW KENDRICK, also known as DELROY NASH, GRAEME LEONARD CRADDOCK, RENOS AVRAAM, and RUTH OTTMAN RIDDLE, and others were followers of Vernon K. Howell, also known as David Koresh.

SCOPE AND NATURE OF THE CONSPIRACY

5. It was a part of the conspiracy that Vernon K. Howell, also known as David Koresh, would and did advocate and encourage an armed confrontation, which he described as a "war" between his followers and representatives of the United States government. Vernon K. Howell, also known as David Koresh, originally predicted that this "war" would occur in the Nation of Israel and later changed the location to Mt. Carmel Compound, near Waco, Texas.

6. It was a part of the conspiracy that in order to prepare for the "war" with the United States, Vernon K. Howell, also known as David Koresh, would and did establish a unit among his followers which he called the "Mighty Men". Defendants, BRAD EUGENE BRANCH, KEVIN A. WHITECLIFF, CLIVE J. DOYLE, JAIME CASTILLO, LIVINGSTONE FAGAN, PAUL GORDON FATTA, WOODROW KENDRICK, also known as BOB KENDRICK, NORMAN WASHINGTON ALLISON, also known as DELROY NASH, GRAEME LEONARD CRADDOCK, RENOS AVRAAM, and other followers were members of the "Mighty Men."

7. It was a part of the conspiracy that in order to arm

his followers for the "war" with the United States, Vernon K. Howell, also known as David Koresh, would and did direct that a business location called "The Mag Bag" be established near the Mt. Carmel Compound for the purpose, among others, of receiving shipments of paramilitary supplies. The supplies purchased and received at The Mag Bag included: firearms parts (including parts for fully automatic AK-47 and M-16 rifles); thirty (30) round magazines and one hundred (100) round magazines for M-16 and AK-47 rifles; pouches to carry large ammunition magazines; substantial quantities of ammunition of various sizes (including .50 caliber armor piercing ammunition); grenade launcher parts, flare launchers, K-bar fighting knives, night vision equipment, hand grenade hulls, kevlar helmets, bullet proof vests and other similar equipment.

8. It was a part of the conspiracy that Defendants BRAD EUGENE BRANCH and PAUL GORDON FATTA would and did make the necessary arrangements to obtain The Mag Bag location, which had a mailing address of Route 7, Box 555, Waco, Texas. It was further a part of the conspiracy that Defendant PAUL GORDON FATTA would and did acquire a Texas Sales and Use Tax Permit in the name of "The Mag Bag." It was a part of the conspiracy that Defendants WOODROW KENDRICK, also known as BOB KENDRICK, and NORMAN ALLISON, also known as DELROY NASH, would and did occupy the premises for the purpose (among others) of receiving paramilitary supplies.

9. It was a part of the conspiracy that Defendants BRAD EUGENE BRANCH, JAIME CASTILLO, PAUL GORDON FATTA, and WOODROW KENDRICK, also

known as BOB KENDRICK, and others would and did acquire and assist in the acquisition of weapons to be used in the "war" with the United States, including .50 caliber semi-automatic rifles.

10. It was a part of the conspiracy that Defendant PAUL GORDON FATTA and others, would and did assist in converting legally purchased semi-automatic rifles to fully automatic rifles. It was a part of the conspiracy that inert hand grenade shells would be converted to live hand grenades for the purpose of waging "war" against the United States government.

11. It was a part of the conspiracy that on February 28, 1993, after becoming aware of a planned search of the premises of the Mt. Carmel Compound, by agents of the ATF, Vernon K. Howell, also known as David Koresh, would and did instruct his followers to prepare for the arrival of the federal agents. It was a part of the conspiracy that KATHRYN SCHROEDER, BRAD EUGENE BRANCH, KEVIN A. WHITECLIFF, CLIVE J. DOYLE, JAIME CASTILLO, LIVINGSTONE FAGAN, GRAEME LEONARD CRADDOCK, RENOS AVRAAM, RUTH OTTMAN RIDDLE, and others would and did change into camouflage/combat clothing and equipment, gather their pistols and rifles, load magazines, distribute hand grenades, assume ambush positions and engage in other conduct designed to kill and attempt to kill and aid and abet the killing of Agents of the ATF upon their arrival at the Mt. Carmel Compound.

12. It was a part of the conspiracy that on February 28, 1993, after the ambush of ATF agents at the Mt. Carmel Compound by their coconspirator, Defendants NORMAN

ALLISON, also known as DELROY NASH, and WOODROW KENDRICK, also known as BOB KENDRICK, and another person would arm themselves at The Mag Bag and endeavor to forcibly enter the Mt. Carmel Compound to assist their coconspirators.

13. It was a part of the conspiracy that after the initial ambush of the ATF, Defendants KATHRYN SCHROEDER, BRAD EUGENE BRANCH, KEVIN A. WHITECLIFF, CLIVE J. DOYLE, JAIME CASTILLO, LIVINGSTONE FAGAN, GRAEME LEONARD CRADDOCK, RENOS AVRAAM, RUTH OTTMAN RIDDLE, and others would and did forcibly resist and oppose agents of the FBI who were authorized to execute search warrants under the authority of the United States from February 28, 1993, until each of them emerged from the Mt. Carmel Compound.

14. It was a part of the conspiracy that on April 18, 1993, Vernon K. Howell, also known as David Koresh, and Steven Schneider would and did finalize a plan to burn the Mt. Carmel Compound in the event an effort was made to finally end the siege by the FBI. This plan was communicated to other residents of the compound.

15. It was part of the conspiracy that on April 19, 1993, some of the conspirators would and did fire upon tanks and other vehicles manned by FBI agents in an attempt to drive them back from the Mt. Carmel Compound.

16. It was a part of the conspiracy that on April 19, 1993 Vernon K. Howell, also known as David Koresh, would give instructions to spread flammable fuel within the Mt. Carmel

Compound upon learning that the FBI was to introduce tear gas into the Compound to end the siege. It was a part of the conspiracy that an unidentified coconspirator would and did give instructions at about noon on April 19, 1993, to start the fires within Mt. Carmel.

OVERT ACTS

In furtherance of such agreement and conspiracy and to effect the objects thereof, the Defendants and their conspirators, known and unknown, committed the following overt acts, among others:

1. On August 4, 1992, in the Western District of Texas, Vernon K. Howell, also known as David Koresh, executed documentation covering the purchase of 88 lower receivers for the AR-15 rifle, 16 handguns, and 10 rifles from Hewitt Handguns.

2. On February 28, 1993, in the Western District of Texas, Special Agent Steven D. Willis of the Bureau of Alcohol, Tobacco, and Firearms was shot and killed by conspirators while he was attempting to execute search and arrest warrants.

3. On February 28, 1993, in the Western District of Texas, Special Agent Robert Williams of the Bureau of Alcohol, Tobacco, and Firearms was shot and killed by conspirators while he was attempting to execute search and arrest warrants.

4. On February 28, 1993, in the Western District of Texas, Special Agent Conway C. LeBleu of the Bureau of

Alcohol, Tobacco, and Firearms was shot and killed by conspirators while he was attempting to execute search and arrest warrants.

5. On February 28, 1993, in the Western District of Texas, Special Agent Todd W. McKeehan of the Bureau of Alcohol, Tobacco, and Firearms was shot and killed by conspirators while he was attempting to execute search and arrest warrants.

6. On April 19, 1993, in the Western District of Texas, Agents of the Federal Bureau of Investigation were fired upon by conspirators as they endeavored to serve arrest and search warrants.

All in violation of Title 18, United States Code, Section 1117.

COUNT TWO
[18 U.S.C. §§ 1114
111(a), and 2]

On or about February 28, 1993, in the Western District of Texas, Defendants,

KATHRYN SCHROEDER
BRAD EUGENE BRANCH
KEVIN A. WHITECLIFF
CLIVE J. DOYLE
JAIME CASTILLO
LIVINGSTONE FAGAN
PAUL GORDON FATTA
WOODROW KENDRICK

aka BOB KENDRICK
NORMAN WASHINGTON ALLISON,
aka DELROY NASH
GRAEME LEONARD CRADDOCK
RENOS AVRAAM
and
RUTH OTTMAN RIDDLE,

by aiding and abetting unknown principals and each other did knowingly, willfully, and unlawfully kill, with malice aforethought, ATF Special Agents Steven D. Willis, Robert Williams, Conway C. LeBleu, and Todd W. McKeehan, Special Agents of the Bureau of Alcohol, Tobacco and Firearms, while said agents were engaged in the performance of their official duties, by shooting the said Agents with a firearm, in violation of Title 18, United States Code, Sections 1114, 1111(a), and Title 18, United States Code, Section 2.

COUNT THREE
[18 U.S.C. § 924(c)(1)]

On or about February 28, 1993, in the Western District of Texas, Defendants,

KATHRYN SCHROEDER
BRAD EUGENE BRANCH
KEVIN A. WHITECLIFF
JAIME CASTILLO
CLIVE J. DOYLE
LIVINGSTONE FAGAN
PAUL GORDON FATTA
GRAEME LEONARD CRADDOCK
RENOS AVRAAM
and

RUTH OTTMAN RIDDLE

did knowingly use and carry a firearm during and in relation to the commission of a crime of violence which may be prosecuted in a court of the United States, to-wit: Conspiracy to Murder Officers and Employees of the United States, in violation of Title 18, United States Code, Sections 1117 and 1114, all in violation of Title 18, United States Code, Section 924(c)(1).

COUNT FOUR
[18 U.S.C. §§ 1114]
1111(a) and 2]

On or about February 28, 1993, in the Western District of Texas, Defendants,

NORMAN WASHINGTON ALLISON, aka
DELROY NASH,
and
WOODROW KENDRICK, aka
BOB KENDRICK,

by aiding and abetting Michael Schroeder, deceased, named as a principal, but not as a defendant herein, did knowingly, willfully, and unlawfully attempt to kill, with malice aforethought, Charles Meyer, a Special Agent of the Bureau of Alcohol, Tobacco and Firearms, while said agent was engaged in the performance of his official duties, but shooting at Special Agent Charles Meyer with a firearm, in violation of Title 18, United States Code, Sections 114, 1111(a), and Title 18, United States Code, Section 2.

COUNT FIVE
[18 U.S.C. § 924(c) (1)]

On or about February 28, 1993, in the Western District of Texas, Defendant,

WOODROW KENDRICK, aka
BOB KENDRICK,

did knowingly, willfully and unlawfully use and carry one or more of the following firearms, to-wit:

(1) an RG revolver, model RG 31, .32 caliber, bearing serial number 0194405;

(2) a Beretta pistol, model 92FS 9 mm, bearing serial number BER116248Z,

during and in relation to the commission of a violent crime which may be prosecuted in a court of the United States, namely, attempting to kill a Federal officer, contrary to Title 18, United States Code, Section 1114 and Section 2, and all in violation of Title 18, United States Code, Section 924 (c) (1).

COUNT SIX
[18 U.S.C. § 924(c) (1)]

On or about February 28, 1993, in the Western District of Texas, Defendant,

NORMAN WASHINGTON, aka
DELROY NASH,

did knowingly, willfully and unlawfully use and carry the following firearm, to-wit: a Jennings .22 caliber pistol, bearing serial number 628835, during and in relation to the commission of a violent crime which may be prosecuted in a court of the United States, namely, attempting to kill a Federal officer, contrary to Title 18, United States Code, Section 1114 and Section 2, and all in violation of Title 18, United States Code, Section 924 (c) (1).

COUNT SEVEN
[26 U.S.C. § 5861 (d)]

On or about April 19, 1993, in the Western District of Texas, Defendant,

GRAEME LEONARD CRADDOCK

did knowingly and unlawfully possess a firearm, as defined by Section 5845 (a), Title 26, United States Code, namely an explosive grenade, being a firearm defined as a destructive device, which firearm was not registered to him in the National Firearm Registration and Transfer Record, in violation of Title 26, United States Code, Sections 5861 (d) and 5871.

COUNT EIGHT
[26 U.S.C. § 5861 (d)
and 18 U.S.C. § 371]

From on or about February 28, 1993, and continuing thereafter until on or about April 19, 1993, in the Western District of Texas, Defendant,

GRAEME LEONARD CRADDOCK

did knowingly and willfully, combine, conspire, confederate and agree with other persons both known and unknown to the Grand Jury, to commit an offense against the United States, namely, to unlawfully possess a firearm as defined by Section 5845(a), Title 26, United States Code, to wit: a grenade, without having the said firearm registered to him in the National Firearms Registration and Transfer Record. In furtherance of the said conspiracy and to effect the objects thereof, the following overt act were committed by the Defendant of the Western District of Texas:

1. On April 19, 1993, co-conspirator Vernon

Howell, also known as David Koresh, gave GRAEME LEONARD CRADDOCK a grenade;

contrary to Title 26, United States Code, Section 5861(d) and in violation of Title 18, United States Code, Section 371.

COUNT NINE
[18 U.S.C. § 371
(18 U.S.C. § 922 (o))]

On or about February 1992, and continuing thereafter until on or about February 1993, in the Western District of Texas, Defendant,

PAUL GORDON FATTA

did intentionally, knowingly and willfully combine, conspire, confederate and agree with other persons to the Grand Jury both known and unknown to commit an offense against the United States, namely, to unlawfully manufacture and possess machineguns, without having the said firearms registered to him in the National Firearms Registration and Transfer Record. In furtherance of the said conspiracy and to effect the objects thereof, the following overt acts were committed by the defendants in the Western District of Texas:

1. On March 21, 1992, PAUL GORDON FATTA purchased a FEG, Model SA85M rifle, 7.62 caliber, Serial No. SL02791;
2. On January 16, 1993, PAUL GORDON FATTA purchased a H&K, SP89, pistol, 9 mm, Serial No. 2122147;

contrary to Title 18, United States Code, Section 922 (o), and in violation of Title 18, United States Code, Section 371.

COUNT TEN
[18 U.S.C. §§ 2 and 922 (o)]

Beginning about February 1992 and continuing thereafter until about February 1993, in the Western District of Texas, Defendant,

PAUL GORDON FATTA

intentionally and knowingly did aid and abet Vernon Howell, also known as David Koresh, in the unlawful possession of machineguns, contrary to Title 18, United States Code, Section 922 (o), and in violation of Title 18, United States Code, Section 2.

A TRUE BILL:

/s/
FOREPERSON

JAMES H. DeATLEY
ACTING UNITED STATES ATTORNEY

By: /s/
W. Ray Jahn
Assistant U.S. Attorney

4. Jury Instructions; Count Three

(Title omitted in printing.)

JURY INSTRUCTIONS - U.S. District Court

COUNT THREE

Count Three of the Indictment charges that on or about February 28, 1993, in the Western District of Texas, Defendants, Brad Eugene Branch, Kevin A. Whitecliff, Jaime Castillo, Clive J. Doyle, Livingstone Fagan, Paul Gordon Fatta, Graeme Leonard Craddock, Renos Avraam and Ruth Ottman Riddle did knowingly use and carry a firearm during and in relation to the commission of a crime of violence which may be prosecuted in a court of the United States, to-wit: Conspiracy to Murder Officers and Employees of the United States, in violation of Title 18, United States Code, Sections 1117 and 1114, all in violation of Title 18, United States Code, Section 924 (c) (1).

4. Jury Instructions; Elements of Count Three

(Title omitted in printing.)

JURY INSTRUCTIONS - U.S. District Court

ELEMENTS OF COUNT THREE

Title 18, United States Code, Section 924 (c) (1), makes it a crime for anyone to use or carry a firearm during and in relation to the commission of a crime of violence which may be prosecuted in a court of the United States.

For you to find a Defendant guilty of this crime, you must be convinced that the government has proved each of the following beyond a reasonable doubt:

First: That the Defendant under consideration committed the crime alleged in Count One of the Indictment. I instruct you that Conspiracy to Murder Officers and Employees of the United States is a crime of violence; and

Second: That the Defendant under consideration knowingly used or carried a firearm during and in relation to the Defendant's commission of the crime alleged in Count One of the Indictment.

The government is not required to prove that the Defendant under consideration actually fired the weapon or brandished it at someone in order to prove "use" or "carrying" as those terms are used in this instruction. However, you must

be convinced beyond a reasonable doubt that the firearm played a role in or facilitated the commission of the crime of violence. In order words, you must find that the firearm was an integral part of the offense charged.

The term "firearm" means any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive. The term "firearm" also includes the frame or receiver of any such weapon, or any firearm muffler or firearm silencer, or destructive device.

5. Verdict of the Jury

(Title omitted in printing.)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNITED STATES OF AMERICA	§
	§
v.	§ Criminal No.
	§ W-93-CR-046
BRAD EUGENE BRANCH (2),	§
KEVIN WHITECLIFF (3),	§
CLIVE DOYLE (4),	§
JAIME CASTILLO (5),	§
LIVINGSTONE FAGAN (6),	§
PAUL GORDON FATTA (7),	§
WOODROW KENDRICK, also known	§
as BOB KENDRICK (8),	§
NORMAN WASHINGTON ALLISON, also	§
known as DELROY NASH (9),	§
GRAEME LEONARD CRADDOCK (10),	§
RENOS AVRAAM (11), and	§
RUTH OTTMAN RIDDLE (12)	§
Defendants.	§

****

VERDICT FORM

****

1) We, the jury, unanimously find each of the following Defendants "Guilty" or "Not Guilty" of the offense of conspiracy to murder federal officers as alleged in Count One of the Indictment:

Brad Eugene Branch	Not Guilty "Guilty" or "Not Guilty"
Kevin A. Whitecliff	Not Guilty "Guilty" or "Not Guilty"
Clive J. Doyle	Not Guilty "Guilty" or "Not Guilty"
Jaime Castillo	Not Guilty "Guilty" or "Not Guilty"
Livingstone Fagan	Not Guilty "Guilty" or "Not Guilty"
Paul Gordon Fatta	Not Guilty "Guilty" or "Not Guilty"
Woodrow Kendrick	Not Guilty "Guilty" or "Not Guilty"
Norman Washington Allison	Not Guilty "Guilty" or "Not Guilty"

Graeme Leonard Craddock	Not Guilty "Guilty" or "Not Guilty"
Renos Avraam	Not Guilty "Guilty" or "Not Guilty"
Ruth Ottman Riddle	Not Guilty "Guilty" or "Not Guilty"

2) We, the jury, unanimously find each of the following Defendants "Guilty" or "Not Guilty" of the offense of aiding and abetting unknown principles and each other in the murder of federal officers as alleged in Count Two of the Indictment:

Brad Eugene Branch	Not Guilty "Guilty" or "Not Guilty"
Kevin A. Whitecliff	Not Guilty "Guilty" or "Not Guilty"
Clive J. Doyle	Not Guilty "Guilty" or "Not Guilty"
Jaime Castillo	Not Guilty "Guilty" or "Not Guilty"
Livingstone Fagan	Not Guilty "Guilty" or "Not Guilty"
Paul Gordon Fatta	Not Guilty "Guilty" or "Not Guilty"

Woodrow Kendrick — Not Guilty
"Guilty" or "Not Guilty"

Norman Washington Allison — Not Guilty
"Guilty" or "Not Guilty"

Graeme Leonard Craddock — Not Guilty
"Guilty" or "Not Guilty"

Renos Avraam — Not Guilty
"Guilty" or "Not Guilty"

Ruth Ottman Riddle — Not Guilty
"Guilty" or "Not Guilty"

For each of the Defendants, if any, that you found "not guilty" in Question #2, or for each of the Defendants, if any, you were unable to reach a verdict in Question #2, answer this question. For each of the Defendants, if any, that you found "guilty" in Question #2, do not answer this question with regard to that Defendant.

3) We, the jury, unanimously find each of the following Defendants "Guilty" or "Not Guilty" of the offense of aiding and abetting unknown principles and each other in the lesser included offense of voluntary manslaughter of federal officers, as described in the Instructions:

Brad Eugene Branch — Guilty
"Guilty" or "Not Guilty"

Kevin A. Whitecliff — Guilty

"Guilty" or "Not Guilty"

Clive J. Doyle — Not Guilty
"Guilty" or "Not Guilty"

Jaime Castillo — Guilty
"Guilty" or "Not Guilty"

Livingstone Fagan — Guilty
"Guilty" or "Not Guilty"

Paul Gordon Fatta — Not Guilty
"Guilty" or "Not Guilty"

Woodrow Kendrick — Not Guilty
"Guilty" or "Not Guilty"

Norman Washington Allison — Not Guilty
"Guilty" or "Not Guilty"

Graeme Leonard Craddock — Not Guilty
"Guilty" or "Not Guilty"

Renos Avraam — Guilty
"Guilty" or "Not Guilty"

Ruth Ottman Riddle — Not Guilty
"Guilty" or "Not Guilty"

4) We, the jury, unanimously find each of the following Defendants "Guilty" or "Not Guilty" of the offense of using or carrying a firearm during and in relation to the commission of

a crime of violence as alleged in Count Three of the Indictment:

Brad Eugene Branch	Guilty "Guilty" or "Not Guilty"
Kevin A. Whitecliff	Guilty "Guilty" or "Not Guilty"
Jaime Castillo	Guilty "Guilty" or "Not Guilty"
Clive J. Doyle	Not Guilty "Guilty" or "Not Guilty"
Livingstone Fagan	Guilty "Guilty" or "Not Guilty"
Paul Gordon Fatta	Not Guilty "Guilty" or "Not Guilty"
Graeme Leonard Craddock	Guilty "Guilty" or "Not Guilty"
Renos Avraam	Guilty "Guilty" or "Not Guilty"
Ruth Ottman Riddle	Guilty "Guilty" or "Not Guilty"

5) We, the jury, unanimously find each of the following Defendants "Guilty" or "Not Guilty" of aiding and abetting Michael Schroeder, deceased, in attempting to kill a federal

officer as alleged in Count Four of the Indictment:

Woodrow Kendrick	Not Guilty "Guilty" or "Not Guilty"
Norman Washington Allison	Not Guilty "Guilty" or "Not Guilty"

6) We, the jury, unanimously find the Defendant Norman Washington Allison Not Guilty of the offense of
"Guilty or "Not Guilty"
using or carrying a firearm during and in relation to the commission of a violent crime as alleged in Count Six of the Indictment.

7) We the jury, unanimously find the Defendant Graeme Leonard Craddock Guilty of the offense of
"Guilty or "Not Guilty"
of possessing an unregistered destructive device, namely a grenade, as alleged in Count Seven of the Indictment.

8) We the jury, unanimously find the Defendant Graeme Leonard Craddock Not Guilty of the offense of
"Guilty or "Not Guilty"
conspiracy to Possess an Unregistered Destructive Device as alleged in Count Eight of the Indictment.

9) We, the jury, unanimously find the Defendant Paul Gordon Fatta Guilty of the offense of conspiracy to
"Guilty or "Not Guilty"
unlawfully manufacture and possess machineguns as alleged in Count Nine of the Indictment.

10) We, the jury, unanimously find the Defendant Paul Gordon Fatta Guilty of the offense of aiding and
"Guilty or "Not Guilty"
abetting Vernon Howell in the unlawful possession of machineguns as alleged in Count Ten of the Indictment.

February 26, 1994 — DATE

#16 — PRESIDING JUROR